

**D. REMARKS**

This Amendment is in response to an Office Action bearing a mailing date of May 23, 2006. The Applicant is appreciative of the constructive comments made by the Examiner. The following subheadings correspond with those of the Office Action.

**Election / Restrictions**

In response to a telephone conversation with the Examiner on April 11, 2006, and after further consideration, Applicant has elected without traverse claims 1-23 and has withdrawn claims 24-28.

**Claim Rejections – 35 USC §102**

Applicant has amended Claims 1, 6, 12 and 14 in order to more precisely describe the invention.

The following explanation addresses the Examiner's rejections of Claims 1, 2, 12, 15-17 and 21 under 35 U.S.C. §102(b) as being anticipated by Lai 5,056,424. Applicant respectfully requests that the Examiner review this explanation and agree that the differences between the invention taught by Lai '424 and the invention taught by Patent Application No. 10/724,247 do not support a finding of anticipation.

Claim 1 as well as Claims 6, 12 and 14 have been amended to include “flexible means for articulation” in order to more precisely describe the articulated connection between the tab and the plate in Application No. 10/724,247. This contrasts with the description in Lai 5,056,424 of “*a connecting means 12 through which a handle 6 is passable*”. The handle of Lai ‘424 is only taught as a separate part, hinged or pivoted in connection to the body, while the tab in Application No. 10/724,247 is specifically taught as a flexible portion of a unitary structure. The structure of Lai ‘424 is required to be metal as it is “*suitable for use over an open fire*”. Thus, Lai has specified a suitable metal linkage for the intended application of ‘424. Additionally, the handle taught by Lai ‘424 is made of a single loop of bent wire, and thus teaches away from any use as a means for gripping food. Further, this loop of bent wire is designed to perform a second function, as stated “*the handle 6, moreover, is designed to fit around and lock over the kettle 3*”, and is uniformly shown as being of a shape to arch over and span the entire container, thus further teaching away from any use as a food gripping member. The flexible articulated tab portion of the tab plate represents a distinct structural and functional difference over the hinged handle of Lai ‘424, and thus the invention claimed in Application No. 10/724,247 should not be seen as anticipated by it.

The following explanation addresses the Examiner’s rejections of Claims 1-3, 11-13 and 15 under 35 U.S.C. §102(b) as being anticipated by Goldberg 2,436,566. Applicant respectfully requests that the Examiner review this explanation and agree that

the differences between the invention taught by Goldberg '566 and the invention taught by Patent Application No. 10/724,247 do not support a finding of anticipation.

Goldberg 2,436,566 teaches "*a handle 113 pivoted to a boss 114 of the container*". In contrast to the Goldberg '566 handle and as described in the preceding portion of this section, the tab has a flexible means for articulation. The handle of Goldberg '566 is only taught as a separate part, hinged or pivoted in connection to the body, while the tab in Application No. 10/724,247 is specifically taught as a flexible portion of a unitary structure. Goldberg '566 discloses a type of pressure cooker, which is of necessity made of metal in order to withstand the temperatures and pressures involved in pressure cooking, in addition to the possible direct exposure to open flame. Thus, Goldberg has chosen a suitable pivoted metal linkage for use in the '566 invention. Additionally, the handle 113 of Goldberg '566 is shown as spanning above the entire container in order "*to cover the vent opening 115*", thus further reducing the handle's degree of utility as a food gripping member. The flexible articulated tab portion of the tab plate represents a distinct structural and functional difference over the hinged handle of Goldberg '566, and thus the invention claimed in Application No. 10/724,247 should not be seen as anticipated by it.

**Claim Rejections – 35 USC §103**

Applicant has amended Claims 1, 12, 14 and 19 in order to more precisely describe the invention, and has withdrawn Claim 20.

The following explanation addresses the Examiner's rejections of Claims 4, 5, 7 and 8 under 35 U.S.C. §103(a) as being unpatentable over Goldberg 2,436,566.

Applicant respectfully requests that the Examiner review this explanation and agree that the differences between the invention taught by Goldberg '566 and the invention taught by Patent Application No. 10/724,247 do not support a finding of obviousness.

Claim 4 depends from Claim 3, which in turn depends from Claim 1. As described in the Claim Rejections – 35 USC §102 section of this document, the flexible articulated tab portion of the invention taught in Claim 1 of Application No. 10/724,247 represents a distinct structural and functional difference over the "*handle 113 pivoted to a boss 114 of the container*" of Goldberg '566. Thus, as discussed in previous sections, Goldberg '566 does not disclose the invention of Claim 1.

Further, the convexly shaped tab lip of Claim 4 in Application No. 10/724,247 is specifically taught as a "*means for tab stiffening*". Goldberg '566 uniformly teaches a barlike handle with substantial thickness. This barlike handle structure is required for the functions of lifting a heavy pot and covering the vent opening against steam release. Modifying the outer edge of the Goldberg '566 handle to have rounded convexly shaped

edges would not produce any degree of stiffening or other favorable structural improvement. Likewise, forming the handle of Goldberg '566 out of thin sheet material, with or without convexly shaped edges, would render it incapable of performing the functions for which it was designed, and there would be no incentive for those skilled in the art to do so. Thus, the convexly shaped tab lip taught in Claim 4 in Application No. 10/724,247 should not be seen as obvious to one skilled in the art in light of Goldberg '566.

The following explanation addresses the Examiner's rejections of Claims 19 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Goldberg 2,436,566. Applicant respectfully requests that the Examiner review this explanation and agree that the differences between the invention taught by Goldberg '566 and the invention taught by Patent Application No. 10/724,247 do not support a finding of obviousness.

Claim 19 has been amended to additionally disclose "and said tab bottom surface has a raised pattern, said raised patterns functioning cooperatively as means for assisting in manually gripping said tab plate when said tab is gripping said food". Thus, while raised patterns on the bottom of a pot and raised patterns on a surface of a handle may both be well known, the combination of the two functioning cooperatively with a flexible articulated intermediary section as a portion of a food-holding plate, to aid in gripping the plate, as taught in Claim 19, is not obvious to one skilled in the art.

Claim 20 has been cancelled in response to the rejection by the Examiner and the amending of Claim 19.

The following explanation addresses the Examiner's rejections of Claims 10 and 11 under 35 U.S.C. §103(a) as being unpatentable over Lai 5,056,424. Applicant respectfully requests that the Examiner review this explanation and agree that the differences between the invention taught by Lai '424 and the invention taught by Patent Application No. 10/724,247 do not support a finding of obviousness.

Claim 10 and 11 both depend from Claim 1. As described in the Claim Rejections – 35 USC §102 section of this document, the flexible articulated tab portion of the invention taught in Claim 1 of Application No. 10/724,247 represents a distinct structural and functional difference over “*a connecting means 12 through which a handle 6 is passable*” of Lai 5,056,424. Thus, as discussed in previous sections, Lai '424 does not disclose the invention of Claim 1 and following from that, both the height no greater than 20% of the nominal width of the plate limitation of Claim 10 and the materials taught in Claim 11 are not obvious to one skilled in the art in light of Lai '424.

Further, Lai '424 specifically discloses “*a cooking assembly for use outdoors over an open fire*”. This teaches away from the use of paper or plastic containing materials. Additionally, the metal handle structure taught by Lai '424 contains a section adjacent to the connecting means 12 that when pivoted into position for use as a handle is

designed to allow a positive, non-flexible control over the cooking assembly when it is being lifted while possibly full of hot contents. No such equivalent structure is present in the sheet material invention claimed in Application No. 10/724,247, and there is no incentive to produce such a structure in Lai '424 out of "*thin, flexible materials*", thus providing more proof that the invention taught in Claim 11 is not obvious to one skilled in the art in light of Lai '424.

**Claim Objections**

The Examiner has objected to Claims 6, 9, 14 and 18 as depending from a rejected base claim. The Applicant submits that if the claim rejections discussed above are overcome, the claim objections become moot.

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With the above, all the items addressed by the Office Action of May 23, 2006 have been addressed by the Applicant. The Applicant looks forward to an early and favorable review. If the Examiner has further questions that can be resolved by telephone, the Examiner is invited to call the Applicant's agent at the number listed below. Agent has been authorized to communicate with the Examiner about this application by a Power Of Attorney Or Authorization Of Agent form that has been previously submitted.

Respectfully submitted,



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